

Application No. 10/028,574
Amdt. Dated: June 6, 2006
Reply to Office Action Dated: March 13, 2006
Customer No.: 24737

REMARKS/ARGUMENTS

The Examiner is thanked for the Office Action dated March 13, 2006. The status of the application is as follows:

- Claim 22 stands rejected under 35 U.S.C.101 as being directed to non-statutory subject matter.
- Claims 1-4, 8-11, 15-18, and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Harrison (US 5,878,222).
- Claims 5, 12, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Liebenow (US 6,601,074).
- Claims 6, 7, 13, 14, 20, and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Zigmond et al. (US 6,400,407).

The rejections and amendments to the claims are discussed below.

Rejection of Claim 22

Independent **claim 22** stands rejected under 35 U.S.C.101 as being directed to non-statutory subject matter. This rejection should be withdrawn for at least the following reasons. Claim 22 has been amended herein to recite the datastream is stored on a computer-readable medium. MPEP §2106(IV)(B)(1). (“‘functional descriptive material’ consists of data structures and computer programs which impart functionality when employed as a computer component. ...When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory”). It is believed that claim 22 is now in condition for allowance. Therefore, it is respectfully requested that this rejection be withdrawn.

Anticipation Rejection of Claims 1-4, 8-11, 15-18, and 22 in view of Harrison

Claims 1-4, 8-11, 15-18, and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Harrison (US 5,878,222). This rejection should be withdrawn for at least the following reasons. The Office has not established a *prima facie* case of anticipation and Harrison does not teach each and every element as set forth in the subject claims and,

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therefore, does not anticipate claims 1-4, 8-11, 15-18, and 22.

The subject Office Action does not establish a *prima facie* case of anticipation because it does not identify which features of the prior art correspond to the claimed elements and limitations. To meet the burden of establishing a *prima facie* case of anticipation, the Office must explain how the rejected claims are anticipated by pointing out where the specific limitations of the claims are found in the prior art. *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (Bd. Pat. App. & Inter.2005). The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. (MPEP §706). The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. (37 C.F.R. §1.104(c)(2)). Applicant requests specific identification of each feature or element in the cited reference which is deemed to correspond to the claimed elements and limitations, and if possible the location in the cited reference where the relevant feature or element is discussed.

Independent **claim 1** recites a system having a shell that executes scripts that control demodulation of broadcast programming. Such scripts are stored in memory, and at least one script includes a sequence of commands for demodulating selected broadcast programming. The at least one script is executable by the shell to select broadcast programming for demodulation from concurrently airing programs, each matching at least one user-specified descriptive criteria. The at least one script employs associated previously-defined user priorities or conditions to select between conflicting matches or routing options.

In the subject Office Action, it is asserted that Harrison teaches the claimed invention. In particular, it is asserted that column 3, lines 6-13 and 21-31 and Figure 1 disclose a shell for executing scripts that control demodulation of broadcast programming as recited in the subject claim. However, these sections of Harrison do not teach or suggest such claimed aspects.

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Instead, column 3, lines 6-13 and 21-31 disclose a multimedia computer having components such as a bus 101, a processor 102, main memory 103, a signal processing and selection unit 104, a display device 105, an input device 106, a cursor control device 107, and a recording unit 108. In the subject Office Action, it is contended that the processor 102 processes data and instructions in a main memory 103 and that such data and instructions provide communication between a user and an operating, thus performing the operation of a shell. However, these sections of Harrison do not teach or suggest that the processor 102 is a shell that executes scripts that control the demodulation of broadcast programming as recited in the subject claim.

It is further asserted in the Office Action that Harrison teaches a shell that executes a script that selects programming from among concurrently airing programs, each matching at least one of a plurality of user-specified descriptive criteria, using previously-defined user priorities or conditions to select between conflicting matches or routing options. Column 3, line 53 - column 4, line 11, column 4, line 43 - column 5, line 50, and Figures 3A and 3B are referenced to support this assertion. However, these sections of Harrison do not teach or suggest such claimed aspects.

In these sections, rather than disclosing that the processor 102 (which is asserted in the Office Action to teach the claimed shell) executes such claimed script, they describe a separate and different component - the signal processing and selection unit (SPSU) 104. In addition, these sections of Harrison do not teach or suggest that the SPSU 104 is a script executed by the processor 102 to select broadcasting as claimed or that the SPSU 104 is a shell that executes such claimed script.

From the above, it is readily apparent that Harrison does not teach each and every element as set forth in the subject claims. Therefore, the rejection of claim 1 should be withdrawn.

Independent claim 8 (and similarly independent claims 15 and 22) recites a video receiver that includes a scripting system for extending unattended control capabilities for the video receiver, wherein the scripting system includes the shell for executing program selecting scripts as set forth in claim 1. As discussed above, Harrison does not teach or

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suggest such shell for executing such scripts. In addition, Harrison does not teach or suggest a video receiver that includes such scripting system. Accordingly, the rejection of claims 8 and 15 should be withdrawn.

Claim 2 (and similarly **claims 9 and 16**) further recites that the at least one script executed by the shell identifies the selected broadcast programming by at least one of one or more channels on which the selected broadcast programming is to be broadcast and one or more time periods during which the selected broadcast programming is to be broadcast, a title of the selected broadcast programming, and keywords describing the selected broadcast programming. In the subject Office Action, column 4, lines 47-50, of Harrison is referenced to support an assertion that Harrison teaches such claimed aspects.

However, since Harrison does not teach or suggest execution of such script by the claimed shell as discussed supra, Harrison cannot teach or suggest that such executing scripts employ the claimed criteria to identify the selected broadcast programming. Thus, the rejection of claims 2, 9, and 16 should be withdrawn. Moreover, claims 2, 9, and 16 respectively depend from claims 1, 8, and 15, and by virtue of this dependency, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

Claim 3 (and similarly **claims 10 and 17**) further recites that the at least one script executed by the shell controls operation of the video receiver to cause a sequence of programs broadcast during separate contiguous time periods on different channels to be demodulated and displayed by the video receiver. In the subject Office Action, it is asserted that Harrison teaches such claimed aspects at column 6, lines 6-15. However, this section of Harrison does not teach or suggest such claimed aspects. Rather, this section of Harrison is drawn to preemption of channels based on priority. In particular, this section discloses that if the priority of the selected signal is higher than the currently displayed channel, the arbitrating unit 270 instructs the display window to preempt the currently displayed window and display the higher priority signal.

This section of Harrison does not contemplate a shell executing script that causes a sequence of programs broadcast during separate contiguous time periods on different

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channels to be demodulated and displayed by the video receiver as recited in the subject claims. Accordingly, the rejection of claims 3, 10, and 17 should be withdrawn. Furthermore, claims 3, 10, and 17 respectively depend from claims 1, 8, and 15, and by virtue of this dependency, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

Claim 4 (and similarly **claims 11 and 18**) further recites that the at least one script executed by the shell controls operation of the video receiver to cause the selected broadcast programming to be demodulated and transmitted to a recording device. In the subject Office Action, it is asserted that Harrison teaches such aspects at column 4, lines 54-56. However, this section of Harrison merely discloses that the arbitrating unit 270 includes logic to determine which channel to display/record on the display/record unit at any particular time. Accordingly, this rejection should be withdrawn. Furthermore, claims 4, 11, and 18 respectively depend from claims 1, 8, and 15, and by virtue of this dependency, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

Obviousness Rejection of Claims 5, 12, and 19 in view of Harrison and Liebenow

Claims 5, 12, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Liebenow (US 6,601,074). This rejection should be withdrawn for at least the following reasons. Harrison does not teach or suggest all the element of the subject claims and, therefore, does not make obvious claims 5, 12, and 19.

In particular, **claim 5** (and similarly **claims 12 and 19**) further recites that the at least one script, prior to causing the selected broadcast programming to be demodulated and transmitted to a recording device, checks for previous demodulation and transmission of the selected broadcast programming to the recording device, wherein execution of the at least one script is terminated if the selected broadcast programming was previously demodulated and transmitted to the recording device. In the subject Office Action, it is conceded that Harrison does not teach or suggest such claimed aspect and asserted that Liebenow teaches such aspects and that it would have been obvious to one of ordinary skill in the relevant art at the time of the invention to combine these teachings with

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Harrison to render applicant's the claimed invention.

However, the referenced section of Leibenow (col. 5, ll. 27-38, and col. 5, l. 58 - col. 6, l. 3) simply discloses inhibiting the recording of a program if it is determined that the program has already been recorded; it does teach or suggest terminating a script executed by a shell if selected programming has previously been demodulated and transmitted. Moreover, the motivation for combining the references purported in the subject Office Action is directed towards preventing the recording of duplicate programs. Neither reference provides a motivation or suggestion to be combined to render the claimed invention. Accordingly, the rejection of claims 5, 12, and 19 should be withdrawn. Furthermore, claims 5, 12, and 19 respectively depend from claims 1, 8, and 15, and by virtue of this dependency, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

Obviousness Rejection of Claims 6, 7, 13, 14, 20, and 21 in view of Harrison and Zigmond et al.

Claims 6, 7, 13, 14, 20, and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Zigmond et al. (US 6,400,407). This rejection should be withdrawn for at least the following reasons. Harrison does not teach or suggest all the element of the subject claims and, therefore, does not make obvious claims 6, 7, 13, 14, 20, and 21.

Claim 6 (and similarly claims 13 and 20) further recites that the at least one script is received by the video receiver together with a broadcast programming stream including the selected broadcast programming, and claim 7 (and similarly claims 14 and 21) further recites that the at least one script is received by the video receiver from an external source separate from a broadcast programming stream including the selected broadcast programming. In the subject Office Action, it is conceded that Harrison does not teach these claimed aspects and asserted that Zigmond et al. teaches such aspects and that it would have been obvious to one of ordinary skill in the relevant art at the time of the invention to combine Harrison and Zigmond et al. to teach the claimed invention.

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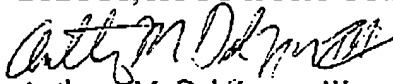
However, the sections of Zigmond et al. referenced in the Office Action (col. 9, l. 62 – col. 10, l. 3, col. 10, ll. 13-15, and col. 10, ll. 16-22,) disclose receiving a logical address link either in a broadcast video signal or from a different supplier. They do not teach or suggest receiving a script executed by a shell to select broadcast programming together with a broadcast programming stream (claim 6) or from an external source separate from a broadcast programming stream (claim 7). Moreover, the motivation for combining the references purported in the subject Office Action is directed providing an intelligent mechanism for communicating instruction data. Neither reference provides a motivation or suggestion to be combined to render the claimed invention. In view of the foregoing, this rejection should be withdrawn. Moreover, claims 6 and 7, 13 and 14, and 20 and 21 respectively depend from claims 1, 8, and 15, and by virtue of this dependency, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

Conclusion

In view of the foregoing, it is submitted that the pending claims distinguish patentably and non-obviously over the prior art of record for at least the reasons set forth above. An early indication of allowability is earnestly solicited.

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Respectfully submitted,
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